LEGISLATIVE BUSINESS.

THE TRAVANCORE SPECIAL MARRIAGE AND SUCCESSION BILL.

PRESIDENT: Under Standing Order 60, I have to make a communication to the Assembly. The Honourable members may have noticed that the Travancore Special Marriage and Succession Bill as amended by the Sri Chitra State Council is put on the agenda for today for reconsideration. The position in regard to the Bill is as follows: –

On the 3rd August 1935, Mr. Kottur Kunjukrishna Pillai moved for permission of the Assembly to introduce the Travancore Special Marriage and Succession Bill. At that time, the introduction of the Bill was opposed by Mr. N. Abdur Rahiman Sahib and Mr. N. E. Varghese. The main ground on which opposition was directed by Mr. Abdur Rahiman Sahib was in the matter of the inclusion of Muslims within the purview of the Bill. In the course of the debate, the mover of the Bill suggested that the question of the exclusion of the Muslim community could be conveniently considered at the stage of the Select Committee, and that the only question for consideration at that time was as to the necessity of a general law on the subject.

The motion that leave be granted for the introduction of the Bill was put and carried. On the 20th April 1936, Mr. Kunjukrishna Pillai moved that the Bill be read in the Assembly. Messrs. T. K. Alexander, Antony George, Abdur Rahiman Sahib, N. E. Varghese and T. C. Joseph opposed the Bill. Mr. K. Mahommed was one of the many members who spoke in support of the Bill. The principle of the Bill was affirmed by the House. A poll was taken at the instance of the then Additional Head Sirkar Vakil, and it was found that 37 members were in favour of the Bill and that 7 members were against it, 12 members remaining neutral. Mr. K. Mahommed was one among the members who spoke and voted in support of the Bill. The Bill was thereupon referred to a Select Committee.

The Bill would, in the usual course, have lapsed on the dissolution of the First Assembly, but the Second Assembly, at its meeting held on the 13th February 1939 allowed Mr. T. P. Velayudhan Pillai (under Standing Order 4) to take charge of and to continue the Bill. A fresh Select Committee was also constituted.

On the 2nd April 1941, the report of the Select Committee was presented to the Assembly by Mr. T. P. Velayudhan Pillai. At that time, a motion was moved by Mr. P. S. Mahomed to the effect that the Bill be recommitted. The motion was lost. Another motion was moved by Mr. K. P. Kochu Kora Tharakan to the effect that the consideration of the Bill be adjourned. That motion also was lost. Thereupon the Bill was taken up for consideration. Mr. P. S. Mahommed moved for an amendment in Clause 2 of the Bill, exempting the Muslim community from its purview. The amendment was opposed b Messrs. A. K. Kumaran Vaidyan and K. R. Narayanan. The motion was lost.

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The Bill came up again for consideration by the Assembly at its meeting held on the 5th August 1941. There was again opposition from Mr. P. S. Mahommed, and speeches were made against the opposition by Messrs. K. R. Narayanan, A. K. Kumaran Vaidyan and several other members. Mr. Mahommed's amendment for the exclusion of the Moslems from the provisions of the Bill was lost, and the Bill was passed.

The Bill came up for consideration by the Council at its meetings held on the 16th August 1941 and 9th December 1941. There was opposition from Mr. T. Mahommed Ismail in regard to the consideration of the Bill. An amendment was also moved by Mr. Ismail for excluding the Muslims from the purview of the Bill, and the motion was supported by Sahib Bahadur Tayek Shaikh Kaderbhoy, Sahib Bahadur Haji Hassan Yacoob Sait and Sahib Bahadur Sultan Muhiadheen. Since the motions made by Mr. Ismail were not accepted by the House, the Muslim members of the Council staged a walk-out on two occasions at two different meetings of the Council, when the Bill was considered. An amendment was made to Clause 32 of the Bill, to the effect that a person who marries under the Act shall not be entitled to perform the functions of a Karnavan or Manager of a joint family or to reside in the family House.

Consideration of the Bill was continued by the Council at its meeting held on the 8th August 1942. Messrs. Mahommed Ismail and Sultan Muhiadheen walked out of the House at the beginning of the discussion itself. The Bill was passed by the Council with a formal amendment in the short title.

The Bill is intended to be purely a permissive measure in the sense that it does not make it *obligatory* on any one to adopt its provisions. It provides for a form of marriage between persons who cannot otherwise validly contract a marriage, and contains certain rules regulating intestate succession for such parties and their descendants. Intercaste marriages are now more or less common, but such unions do not confer any civil rights on the parties and their off-springs. The female is treated for purposes of law as a concubine, and the children as illegitimate issues. This Bill provides that if the marriage is conducted in accordance with its provisions, the concubine becomes the wife, and the illegitimate issues become legitimate children.

The major communities in the State, namely the Nayars and the Ezhavas, are for such a measure. Amongst the Christians, there was some opposition from the Roman Catholic section. The Muslims have put up the strongest opposition, but to counteract this, the Ezhavas (as may be seen from the speeches of several Ezhava members) are equally opposed to any step towards exemption of the Muslims from the operation of the measure.

Under the Mahommedan Law, a Mahommedan is entitled to have as many as four wives, but if he contracts a marriage under the proposed enactment, he cannot marry again during the subsistence of that marriage.

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[President]

The Bill provides for a system of succession which is at variance with that laid down by the Mahommedan Law. Under the Mahommedan Law, the daughter gets only one.half of what the son gets. Under the Bill, the son and the daughter share equally. Again, under the Mahommedan Law, the mother gets a definite share, which may be more or less than that of a child, but under the Bill, the mother takes an equal share with a child. The same is the case with a widow. Then again, a Mahommedan cannot, by will, dispose of more than a third of his estate, while under the Bill, he can dispose of by will the whole or any portion of his self-acquired or separate property.

It is also stated that a marriage between a Muslim and an idolator is forbidden by the Mahommedan Law, but that the Bill enables him to legally contract such a marriage and tends to divert succession along channels forbidden by the Mahommedan Law. That is not quite correct. The question is which are the communities following their religions from a revealed book. The Bible is regarded as a revealed book; the Koran is regarded as a revealed book. The Jews also have a revealed book. This is not the time or the occasion to consider whether the Vedas may also be treated as a revealed book. The Muslim community has not regarded the Gita or the Vedas as revealed books. The question is between the Kitabis and the Non-Kitabis. The followers of Koran are not permitted to marry non-kitabis. The Islamic Law is very strict in this respect. But then, concubinage is not recognised by Islamic Law. Concubinage is punishable by death according to the Koranic injunctions. A person who keeps a concubine is to be stoned to death.

In the British Indian Civil Marriage Act (III of 1872), the Muslims are excluded from the purview of the Act. In the course of the debate regarding the provisions of the Bill, it was pointed out that Mr. Jinnah, the Muslim Leader has married a Parsi Lady. And his daughter has married a Christian gentleman. In Cochin, the Muslims are not exempted from the provisions of the Cochin Civil Marriage Act (XXI of 1110) and there is not even an enabling provision in the Cochin Act for exemption being granted in appropriate cases, similar to the provision contained in Section 55 of the Baroda Special Marriage Act XV of 1932.

Now, I have been reading from a very excellent note prepared in the Secretariat for my benefit. It summarises the position very carefully. The line which the Government have decided to take is as follows: The Government, I am sure, are only too anxious to make it clear that every community, majority or minority community, in the case of any special claim which they wish to urge or any special consideration which they wish to emphasise, should be patiently heard and the points considered on their respective merits. My own attitude

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on this matter has been made abundantly clear in the course of my remarks on the 5th August 1941 as President of this House. This is what I then stated :

> "It has, however, come to the notice of Government and of the Chair that a proportion of the Muslim population of the State feels that the application of this Bill to Muslims might conflict with Koranic injunctions and might be against their religious dictates. Knowing as I do how solicitious this House is, as it should be, regarding the feelings of any minority which feels strongly on a matter of this kind, I have thought it best to allow the honourable Member to move the amendment which he will now do."

Mr. Muhammed moved the amendment which was lost. On the same day I stated as follows :—

> "Nobody now disputes the underlying principles of the Mohamedan form of marriage. But the question that arises—and I think honourable Members must keep that in mind—on this Bill is simple and definite. If that is dealt with, there ought to be no other difficulty and at the risk of interpreting the doctrinal and the legal matter may I point out what I mean ? Under Mohammedan Law as I have understood it, it is open to a Mohammedan man to marry a member of the opposite sex who believes in one of the revealed books recognised by the Koran ad a Mahommedan woman can only marry a Muslim. Among those revealed books are the Koran itself, the Bible and the Old Jewish Pentateuch.....The Mohammedan Law equally lays down that whereas on account of certain historical and other reasons Prophet Mohammed laid down that it is open to a man to marry a maximum of four wives, concubinage as such, apart from certain aspects of slave-holding referred to *in extenso* in the Koran and which do not appertain for the present age or for India, where slave-holding as such is not recognised, is definitely prohibited by the Koran. .....So far as I have been able to see, and that is the only reasonable objection to this Bill—whether this House will so enact a provision enabling Mohammedans to marry outside the tenets of the Koran in such a manner as to legitimatise the issue of that marriage and to give new ways of inheritance which are not either recognised or sanctioned by the Koran. That is the only thing that strikes me and all other discussions are, to my mind beside the point. It must, however, be realised that this Bill is purely permissive."

What is the Government's duty at this juncture ? This Government do not propose in matters of social legislation to vote or take any part or side in the actual voting in regard to the principles or details of such a Bill. It might be urged in opposition to such a course that if that course were adopted, it would be putting a premium on the majority community to carry on legislation ignoring the rights of the minority communities, which are very extensively represented on the floor of the House. I think that the very best that the Government could do, and propose to do, is to recommit this Bill for the consideration of this House so that every minority community might once again say all that has been said over and over again, so that they might feel that their point of view has been put forward thoroughly and has been fully and anxiously cogitated upon by this House, and after giving arguments and counter-arguments, this House might decide as it deems fit. But Government members will not take part in the voting. I have decided to re-commit this Bill for the re-consideration of this House.

MR. K. G. KUNJUKRISHNA PILLAI : Sir, in view of the fact that this matter is a very important one, I suggest that the Bill might be taken up at another sitting of the House.

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PRESIDENT : I think that motion might better be made from the non-official side of the House.

MR. M. R. NARAYANA PILLAI : Sir, I move for the adjournment of the Bill to the next session which may be called within two months, if possible.

SADASYATILAKA T. K. VELU PILLAI : I second the motion.

The motion that the consideration of the Travancore Special Marriage and Succession Bill be postponed to the next session was put and carried.

THE TRAVANCORE VARNAVA BILL.

MR. KAVIYOOR K. K. KOCHUKUNJU : സർ, ബഹുമാനപ്പെട്ട ഗവണ്മെൻറിൻെറയും അവശജനഗ്രണകാംക്ഷികളായി ഇന്നിവിടെ സന്നിഹിതരായിട്ടുള്ള ജനപ്രതിനിധികളുടേയും ദയവേറിയ പഠ്യാലോചനയ്ക്ക് "തിരുവിതാംകൂർ വർണ്ണവബിൽ" അവതരിപ്പിക്കുവാൻ അനുവാദം ഉണ്ടാകണമെന്ന് ഞാൻ സാദരം അപേക്ഷിക്കുന്നു.

ഞാൻ ഈ ബിൽ അവതരിപ്പിക്കുന്നതോടുകൂടി ഈ ബില്ലിനെക്കുറിച്ച് ചില സംഗതികൾ ഇവിടെ വിശദമാക്കുന്നതു അവസരോചിതമാണെന്ന് വിശ്വസിക്കുന്നു. സർ, ഇപ്രകാരം ഒരു ബിൽ അവതരിപ്പിക്കുവാൻ ഞാൻ പ്രേരിതനായത് സമുദായത്തിൻെറ ഏകകണ്ഠമായ അഭിപ്രായത്തിൽ അതെന്നുള്ള വസ്തുത അത്യന്തമായി അറിയിച്ചുകൊള്ളട്ടെ. സമുദായത്തിൽപ്പെട്ട സാധുക്കളായ അനേകം ദമ്പതിമാർ മതിയായ കാരണങ്ങൾ കൂടാതെ അവരുടെ ദാമ്പത്യബന്ധം ശിഥിലമായി അപാരമായ ക്ലേശങ്ങളും കഷ്ടനഷ്ടങ്ങളും സഹിക്കുന്നവരായിട്ടുണ്ടെന്ന് എനിക്ക വേണ്ടവിധം അറിവാൻ കഴിഞ്ഞിട്ടുണ്ട്. ഇപ്രകാരം സംഭവിച്ചിട്ടുള്ള സാധുക്കൾ രണ്ടാംക്ലാസ്സ് മജിസ്ട്രേട്ടുകോടതികളിൽ കൊടുക്കുന്ന സകല പുനർവിവാഹക്കേസുകളും റജിസ്ട്രേഷൻ ഇല്ലാ എന്നും ഇവിടെ വിസ്തരിക്കുവാൻ പൗവ്വർ ഇല്ലായെന്നും മറും പറഞ്ഞു തള്ളുകയാണ് ചെയ്യുന്നത്. ഈ സംഭവം സമുദായത്തിൻെറ ഐശ്വര്യത്തെ കെടുക്കുന്നതും അഭിമാനത്തെ ക്ഷതപ്പെടുത്തുന്നതും ആണ്. ഒരു ശുദ്ധമായ വിവാഹസമ്പ്രദായമില്ലാത്ത സമുദായം നാൾക്കുനാൾ ദുഷിച്ചുപോകുവാനേയിടയുള്ളൂ. അതുകയാൽ അവശസമുദായങ്ങളിൽ ഒന്നായ ഈ സാധുസമുദായത്തിൻെറ ഭാവിശ്രേയസ്സിനെ പുരസ്കരിച്ചു കൊണ്ടുവന്നിട്ടുള്ള തിരുവിതാംകൂർ "വർണ്ണവബിൽ" കഴിയുന്നതും വേഗത്തിൽ നിയമമാക്കി ഈ സാധുസമുദായത്തെ സഹായിപ്പാറാകണമെന്നപേക്ഷിക്കയും ഒന്നുകൂടി വർണ്ണവബില്ലിൻെറ അവതരണാനുവാദം അപേക്ഷിക്കയും ചെയ്യുന്നു.

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